

Diane Conklin
Spokesperson
Mussey Grade Road Alliance
PO Box 683
Ramona, CA 92065

June 10, 2021

Ms. Caroline Thomas Jacobs
Director, Wildfire Safety Division
California Public Utilities Commission, Wildfire Safety Division
505 Van Ness Avenue
San Francisco, CA 94102

Transmittal via email: wildfiresafetydivision@cpuc.ca.gov and R.18-10-007 service list

**RE: MUSSEY GRADE ROAD ALLIANCE REPLY TO UTILITY COMMENTS ON THE
WILDFIRE SAFETY DIVISION'S PROPOSED CHANGES TO THE 2021 SAFETY
CERTIFICATION GUIDANCE PURSUANT TO PUBLIC UTILITIES CODE §8389(F)(2)**

Dear Director Thomas Jacobs:

The Mussey Grade Road Alliance (MGRA or Alliance) serves these comments pursuant to the instructions in the May 11, 2021 Proposal circulated by the Wildfire Safety Division (WSD),¹ which allows public comment prior to 5 p.m. on June 15, 2021.

A number of stakeholders responded to WSD's proposed changes to the 2021 safety certification guidance, including the Alliance.² This reply is specifically in response to the comments of PG&E,³ SCE,⁴ and SDG&E.⁵

¹ Wildfire Safety Division's Proposed Changes to the 2021 Safety Certification Guidance Pursuant to Public Utilities Code §8389(f)(2); May 11, 2021; p. 6.

² MUSSEY GRADE ROAD ALLIANCE COMMENTS ON WILDFIRE SAFETY DIVISION'S PROPOSED CHANGES TO THE 2021 SAFETY CERTIFICATION GUIDANCE PURSUANT TO PUBLIC UTILITIES CODE §8389(F)(2); June 1, 2021. (MGRA Comments)

³ Wildfire Safety Division's Proposed Changes to the 2021 Safety Certification Guidance Pursuant to Public Utilities Code § 8389(f)(2); June 1, 2021. (PG&E Comments)

⁴ Southern California Edison Company's Comments on Wildfire Safety Division's Proposed Changes to the 2021 Safety Certification Guidance Pursuant to Public Utilities Code §8389(f)(2); June 1, 2021. (SCE Comments)

⁵ Comments on Wildfire Safety Division's Proposed Changes to the 2021 Safety Certification Guidance Pursuant to Public Utilities Code Section 8389(f)(2); June 1, 2021. (SDG&E Comments)

The Alliance takes issue with several points raised by the utilities.

In its own comments, MGRA emphasized that the issuance of a safety certification increased the likelihood of cost recovery by shifting the burden of proof regarding utility prudence.⁶ The utility comments confirm and augment this point. SCE notes that “the Safety Certification plays a key role in limiting the utilities’ exposure to liability from wildfires.”⁷ PG&E maintains that a primary intent of AB 1054 is “quieting uncertainty in the capital markets”.⁸ It is surprising, if this is the case, that any certification is required at all. The fact that a “Safety Certification” is in fact required implies that the intent of the AB 1054 authors was to ensure that only safely operating utilities are granted the privilege of protection. The changes proposed by WSD help to add clarity to what constitutes safe operation.

The statute itself states that among the necessary criteria for obtaining a safety certificate that:

§8389(e)(7).

(7) The electrical corporation is implementing its approved wildfire mitigation plan. The electrical corporation shall file a tier 1 advice letter on a quarterly basis that details the implementation of both its approved wildfire mitigation plan and recommendations of the most recent safety culture assessment, and a statement of the recommendations of the board of directors safety committee meetings that occurred during the quarter. The advice letter shall also summarize the implementation of the safety committee recommendations from the electrical corporation’s previous advice letter filing. If the division has reason to doubt the veracity of the statements contained in the advice letter filing, it shall perform an audit of the issue of concern.

As noted in MGRA’s comments, the WSD must make a determination of whether the utility is implementing its plan in order for this condition to be satisfied. “Implementing” a plan implies that the utility is making a good faith effort to adhere to the provisions of the plan and execute it. For a utility to merely state that it is doing so does not constitute evidence that the utility is in fact implementing the plan. The utilities, however, maintain that the quarterly advice letters constitute proof of compliance: “To meet this requirement for Safety Certification, a utility needs only to

⁶ MGRA Comments; p. 2.

⁷ SCE Comments; p. 4.

⁸ PG&E Comments; p. 3.

show that it has previously submitted quarterly tier 1 advice letters (AL) with specified information.”⁹ Closer reading of §8389(e)(7) shows no such statement. In the language of the statute, implementation and advice letters are independent activities, both of which are necessary for the granting of safety certifications. There is nothing in the language of the statute that states that advice letters are complete and satisfactory evidence of implementation, or that would prohibit WSD from obtaining evidence of implementation from sources other than the advice letters.

The utilities are opposed to using recent utility behavior to judge whether the utilities are implementing their plans in good faith. PG&E states that: “The statutory criteria for a safety certification are not retrospective or investigative with respect to conduct.”¹⁰ In other words, safe utility behavior is irrelevant, in the utilities’ view, to obtaining a Safety Certification. The word of the utility alone, they argue, provides sufficient justification for issuing a Safety Certification. The utility construct stands the whole concept of a “Safety Certification” on its head.

For these reasons, the Alliance continues to support WSD’s proposed guidance changes and urges WSD to ensure that issuance Safety Certifications are issued only to safety operated electrical corporations.

The Alliance continues to support WSD’s efforts and appreciates the opportunity to provide these comments.

Respectfully submitted this 10th day of June, 2021,

By: /S/ **Diane Conklin**

Diane Conklin
Spokesperson
Mussey Grade Road Alliance
P.O. Box 683
Ramona, CA 92065
(760) 787 – 0794 T
dj0conklin@earthlink.net

⁹ SCE Comments; p.

¹⁰ PG&E Comments; p. 9.